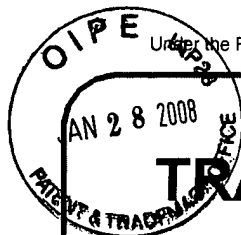


1638

PTO/SB/21 (12-07)

Approved for use through 12/31/2007. OMB 0651-0031
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Application Number	10/536,888		
	Filing Date	May 31, 2005	
	First Named Inventor	Thomas R. Young	
	Group Art Unit	1638	
	Examiner Name	Russell P. Kallis	
Total Number of Pages in This Submission	4	Attorney Docket Number	63-000210US

ENCLOSURES (check all that apply)

<input type="checkbox"/> Fee Transmittal Form <input type="checkbox"/> Fee Attached <input checked="" type="checkbox"/> Amendment / Response <input checked="" type="checkbox"/> Response to Restriction <input type="checkbox"/> Affidavits/declaration(s) <input type="checkbox"/> Extension of Time Request <input checked="" type="checkbox"/> Receipt Acknowledgement Postcard <input type="checkbox"/> Information Disclosure Statement <input type="checkbox"/> Certified Copy of Priority Document(s) <input type="checkbox"/> Response to Missing Parts/Incomplete Application <input type="checkbox"/> Response to Missing Parts under 37 CFR 1.52 or 1.53	<input type="checkbox"/> PTO-1449 Form <input type="checkbox"/> Cited References <input type="checkbox"/> Copy of PCT Search Report <input type="checkbox"/> Copy of EP Search Report <input type="checkbox"/> CD, Number of CD(s) _____ <input type="checkbox"/> Power of Attorney, Revocation Change of Correspondence Address <input type="checkbox"/> Terminal Disclaimer <input type="checkbox"/> Small Entity Statement <input type="checkbox"/> Request for Refund	<input type="checkbox"/> Interview Summary <input type="checkbox"/> Request for Continued Examination (RCE) <input type="checkbox"/> Request for Corrected Filing receipt <input type="checkbox"/> Copy of Filing Receipt – marked up <input type="checkbox"/> Status Letter <input type="checkbox"/> Additional Enclosure(s) (please identify below): <div style="border: 1px solid black; height: 50px; width: 100%;"></div>
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Authorization to Charge Deposit Account
Please charge Deposit Account No. 50-0893 for any additional fees associated with this paper or during the pendency of this application, including any extensions of time for consideration of the documents enclosed.

Remarks

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT

Firm or Individual name	Jonathan Alan Quine, Reg. No. 41,261, Quine Intellectual Property Law Group, P.C.		
Signature			
Date	January 24, 2008		

CERTIFICATE OF MAILING

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QUINE INTELLECTUAL PROPERTY LAW GROUP, P.C.

By: Deborah Barragan
Deborah Barragan

Appl. No. : 10/536,888 Confirmation No. 1367
Applicant : Thomas R. Young, et al.
Filed : May 31, 2005
TC/A.U. : 1638
Examiner : Russell P. Kallis

Docket No. : 63-000210US
Customer No. : 22798

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

RESPONSE TO RESTRICTION

In response to the restriction requirement of December 27, 2007, Applicants Elect Group I, E, iii., with traverse.

Applicants detailed the improper nature of the Examiner's original restriction in their response of October 3, 2007. Applicants hereby incorporate the reasons noted as to why the restriction is fatally improper here. Applicants note that the careful analysis of correct restriction practice previously presented is unanswered by the current new restriction, which simply compounds the problems previously detailed, by presenting a further improper restriction based upon "carotinoid biosynthetic polypeptides."

The correct restriction procedure to be used in the situation where a purely *generic* claim encompasses multiple *species* is election of species practice, as specified by 37 C.F.R. § 1.146. In addition to being the only correct procedure in the present circumstances, election practice is no more burdensome than the restriction approach noted by the Examiner. Specifically, if a *generic* claim and elected *species* are examined and found to be unpatentable, the application is limited to the elected species. If the genus claim is patentable, no further searching is necessary